

Amendment After Final Rejection  
Serial No. 09/976,339

US010256

### REMARKS

The Office Action mailed December 23, 2005 has been reviewed and carefully considered. Claims 1-25 remain pending, the independent claims remaining 1, 7, 9, 13, 17 and 22. Reconsideration of the above-identified application in view of the following remarks is respectfully requested.

Claims 1-20 stand rejected under 35 U.S.C. 103(a) as unpatentable over U.S. Patent No. 6,868,277 to Cerwall et al. ("Cerwall") in view of U.S. Patent No. 6,169,761 to Marcoccia et al. ("Marcoccia").

Claim 1 recites, "... selecting a new channel . . . switching said plurality of STAs to said new channel."

Cerwall relates to "a mobile station" (see preamble of claim 10 in Cerwall) selecting a new channel, rather than a plurality of stations. In the Cerwall Time Division Multiple Access (TDMA) system (col. 4, lines 39-40), "each BTS transmits on several separated radio frequencies" (col. 4, lines 44-45). To each downlink frequency there is a corresponding uplink frequency which is used by the mobile station (col. 4, lines 46-48). Measurement results are used "to decide which channel to camp on" (col. 1, lines 1-5), but the decision is made for a single mobile station (col. 6, lines 38-40; col. 9, line 4). The applied references, alone or in combination, lack any suggestion for "... a plurality of stations (STAs) located within the coverage area of a basic service set (BSS) in a wireless local area network (WLAN). . .", "... switching said plurality of STAs to said new channel."

In addition, as the Office Action acknowledges, the Cerwall TDMA system would not feature the "Clear Channel Assessment (CCA)" of the present claim 1.

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It would not have been obvious to implement a Cerwall TDMA system, which uses round-robin allocation, with a CCA, the latter being utilized in carrier-sense, multiple-access, collision avoidance (CSMA/CA) and not in TDMA. Cerwall mentions adaptation of its principles to CDMA, but CSMA/CA is not utilized in CDMA.

Moreover, Marcoccia relates to spread spectrum frequency hopping, and is thus incompatible with the Cerwall TDMA system.

No modification of Cerwall to resemble the present claim 1 would have been obvious.

Cerwall uses a control channel (col. 5, line 4), separate from any traffic channel, for communicating measurements from a particular mobile station (MS) to a base station controller (BSC) (col. 4, line 62 - col. 5, line 6). To each downlink frequency there is a corresponding uplink frequency which is used by the MS (col. 4, lines 46-48). The BSC uses the measurements received, and considers mutual interference with other base transceiver stations (BTSs) or MSs, in selecting a traffic channel for the particular MS (col. 5, lines 11-18).

Cerwall does not use "Clear Channel Assessment (CCA)," which, as mentioned above, would imply the use of CSMA/CA. As would have been understood by those of ordinary skill in the art, Cerwall does not feature, disclose or suggest an "access point (AP)," "stations (STAs)," a "basic service set (BSS)," "a wireless local area network (WLAN)," or a "received signal strength indication (RSSI)." Cerwall does not operate in a network in which, even if BSSs overlap, i.e., two adjacent BSSs operate at the same channel, CSMA/CA will avoid much of the interference, and the protocol will

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still operate. Accordingly, changes to Cerwall that might be construed as obvious would not result in an embodiment that resembles the present claim 1.

The Cerwall CDMA embodiment suffers the same deficiencies.

In either case, the combination the Office Action suggests would change the principle of operation of the primary reference (MPEP 2143.01(VI)).

Item 3 of the Office Action suggests that Cerwall discloses or suggests STAs, an AP, an RSSI, a CCA, and refers to various passages in Cerwall for support.

However, none of the passages afford such support, for reasons set forth in the above discussion.

The Office Action cites to Marcoccia.

However, Marcoccia cannot make up for the deficiencies in the primary reference. Nor could any reference.

The Office Action also now "mentions" a new reference, U.S. Patent No. 6,597,680 to Lindskog et al. ("Lindskog"), which does not relate to a system configured to accommodate an "access point (AP)," "stations (STAs)," a "basic service set (BSS)," "a wireless local area network (WLAN)," and a "received signal strength indication (RSSI)." Also, as mentioned above, any rejection that maintains the current primary reference cannot be sustained.

For at least the above reasons, the applied references fail to render obvious the present invention as recited in claim 1. Reconsideration and withdrawal of the rejection is respectfully requested.

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The other pre-existing independent claims 7, 9, 13, and 17 include this aspect quoted above for claim 1, and are likewise deemed to distinguish patentably over the applied references.

Claims 21-24 stand rejected under 35 U.S.C. 103(a) as unpatentable over Cerwall in view of Marcoccia and U.S. Patent No. 6,694,138 to Kobylinski et al. ("Kobylinski").

Claim 21 depends from claim 17, and Kobylinski fails to compensate for the shortcomings of the other two applied references.

Independent claim 22 recites various terms noted above with regard to claim 1, and a type of network to which claim 1 applies. Kobylinski fails to make up for the deficiencies of the other references.

Claim 25 stands rejected under 35 U.S.C. 103(a) as unpatentable over Cerwall in view of Marcoccia and "Performance Issues and Algorithms for Dynamic Channel Assignment" by Chuang.

Claim 25 depends from claim 1. Chuang relates to TDMA, but cannot make up for the shortcomings of the other cited references.

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For all the foregoing reasons, it is respectfully submitted that all the present claims are patentable in view of the cited references. A Notice of Allowance is respectfully requested.

Respectfully submitted,

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